REMARKS

Claims 1-3, 5, 6, 8, 12-15, 17, 19-21, 24-25, 32 and 34 are amended. Claim 33 is canceled herein. Claims 10, 22, 30 and 31 were canceled in previous responses. Claims 36-38 are added. Accordingly, claims 1-9, 11-21, 23-29, 32 and 34-38 remain pending.

Claim Rejections - 35 USC § 103

Applicant respectfully requests reconsideration of the rejection to claims 1-9, 11-21, 23-29, 32, 34 and 35 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,957,082 (Fuson) in view of U.S. Patent No. 5,309,902 (Kee), U.S. Patent No. 5,261,459 (Atkinson) and U.S. Patent No. 5,741,003 (Segien).

Claims 1 and 20

Claims 1 and 20 are amended to state that the first and second ports are fluid introduction and fluid suction ports, respectively; that the first passageway is adapted for communication with the fluid lumen of a nasogastric tube and the relief port is adapted for communication with the vent lumen of a nasogastric tube; and that the valve includes an anti-reflux valve in the housing in fluid communication with the relief port. The anti-reflux valve is configured to open to permit air to flow through the relief port when the first passageway and relief port are in communication with respective lumens of the nasogastric tube and suction is applied to the suction port. (See, for example, the suction port 234 and anti-reflux valve 288 shown in Fig. 14 below and described in paragraphs [0106], [0109] and [0110] of the published application.) This construction is not shown or suggested by the prior art, including Fuson and Kee et al.

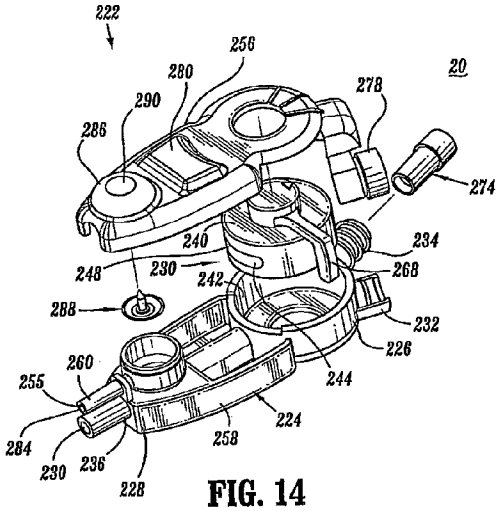
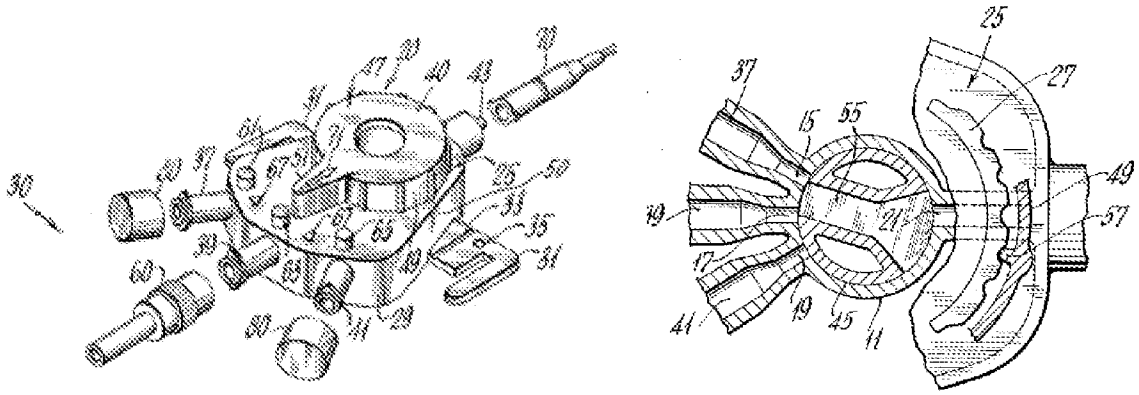
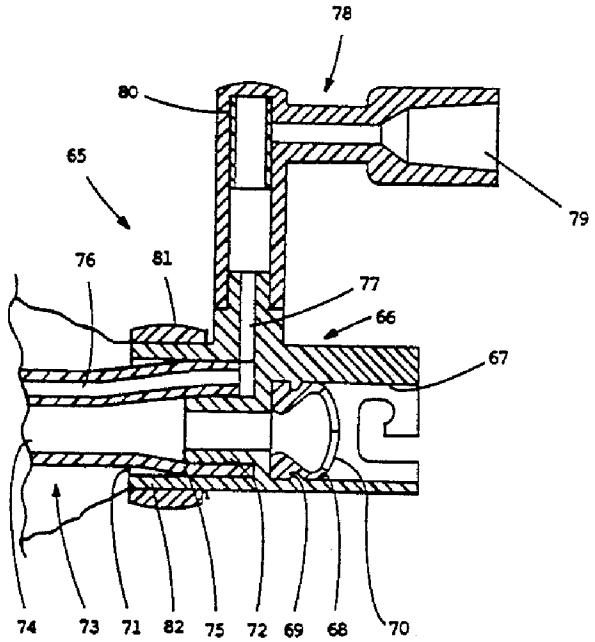


FIG. 14

Fuson discloses a selection valve 20 comprising a rotor gate 40 disposed within a body and support member 50. Figures 1 and 8 are reproduced below. Four connection tubes 37, 39, 41, 43 connect to ports 15, 17, 19, 21, respectively. The ports 15, 17, 19 are all inlet ports for the delivery of various fluids under pressure. Fuson does not teach or suggest a housing having a suction port as stated in claims 1 and 20. Further, the Examiner concedes that Fuson fails to teach or suggest a second passageway separate from the first passageway as recited in the claims.



Kee is cited, in combination with Fuson, as disclosing the second passageway. The Examiner asserts that attaching the valve 20 in Fuson to the connector 65 in Kee (see figure below) will produce a second passageway in the housing that is separate from the first passageway in the housing as stated in claims 1 and 20.



Kee is directed to a suction catheter device comprising a dual-lumen valve-end connector 65 including a housing 66 having an opening 67 into which a suction control valve can be inserted, and a second opening 71 opposite the first opening for attaching to a dual-lumen. A flow channel 77 extends from the second opening 71 and is configured for attaching a tubular member 78 including a luer-type connection opening 79.

Claims 1 and 20 are patentable over the cited references because the claims recite that the second passageway is included **in** the housing. The examiner merely proposes **attaching the valve 20 in Fuson to** the connector 65 in Kee. Simply attaching the connector 65 will, at best, produce a second passageway that is **connected to** the housing. The second passageway will still be separate from or **outside of** the housing. Therefore, the combination of Fuson and Kee fails to teach or suggest a second passageway in the housing as stated in claims 1 and 20. Accordingly, claims 1 and 20 are patentable over the cited references.

Additionally, claims 1 and 20 recite that the anti-reflux valve is adapted to open to permit air to flow through the relief port when the first passageway and relief port are in communication with respective lumens of said nasogastric tube **and suction is applied to the suction port**. As stated above, Fuson does not provide for suction because each of the ports 15, 17, 19 is an inlet port for introducing fluid. Moreover, there is no disclosure in Kee that the valve 80 will open in response to suction being applied through the large lumen 74. The only disclosure regarding the valve 80 relates to fluid delivery through the tubular member 78 into the small (irrigation) lumen 76. Sustaining a rejection to claims 1 and 20 based on the connector 65 in Kee would only amount to an after the fact hindsight derivation of the claimed invention. Therefore, the combination of Fuson and Kee does not show or suggest an anti-reflux valve adapted to open when the first passageway and relief port are in communication with respective lumens of said nasogastric tube and suction is applied to the suction port. Thus, claims 1 and 20 are patentable over the cited references for this additional reason.

Furthermore, claim 20 affirmatively claims the nasogastric tube. Additionally, claim 20 recites that the first passageway and the second passageway fluidly communicate adjacent a distal end of the nasogastric tube. Fuson and Kee are completely silent on the details of the construction of the tubing 70/catheter 73 attached to the respective devices. Accordingly, claim 20 is patentable over the cited references for this additional reason.

Claims 2-9, 11-14, 21, 23-29, 32, 34, 35, 37 and 38 depend from either claims 1 or 20 and are patentable for at least the same reasons.

Further, claim 21 states that the housing comprises top and bottom clamshell sections (e.g., 256 and 258 in Fig. 14 above) assembled to enclose the valve member, and a handle (e.g., 268) disposed outside the housing for moving the valve member in the housing. The valve 20 in Fuson does not comprise top and bottom clamshell sections. Rather, the valve 20 comprises a unitary body and support member 50. Therefore, claim 21 is patentable over the cited references for this additional reason.

New claims 37 and 38 depend from claims 1 and 20, respectively, and state that the anti-reflux valve comprises an umbrella valve configured to open in response to suction applied to the suction port. As discussed above, the valve 80 in Kee is only configured to open under pressure caused during the introduction of fluid at the opening 79 of the tubular member 78. Accordingly, claims 37 and 38 are patentable for this additional reason.

Claim 15

Claim 15 is amended to state that the second passageway is non-releasably fixed in relation to the introduction and suction ports in the housing. As stated above, the Examiner proposes attaching the valve 20 in Fuson to the connector 65 in Kee. Therefore, the engagement between the flow channel 77 in the connector 65 and inlet ports 15, 17, 19 in the valve 20 would constitute a releasable attachment. Further, a non-releasable attachment is not shown or suggested in the cited references. To the contrary,

the connector 65 in Kee is designed as a modification to the catheter device 15. The connector 65 is attached to the suction control valve 56 to convert the device from a single-lumen suction catheter device to a dual-lumen catheter device. Therefore, Kee in fact teaches away from a non-releasable attachment. Accordingly, claim 15 is patentable over the cited references. Claim 16-18 depend from claim 15 and are patentable for at least the same reason.

Claim 19

Claim 19 is amended to recite that first passageway is defined in part by flexible tubing fluidly connecting said second opening and said third port, said tubing being configured to flex **in response to movement of the valve member** to establish sealed fluid communication between the first opening and the first port or the second port while maintaining continuous sealed fluid communication between the second opening and the third port via the tubing.

The Examiner argues that the slitted septum 68 in the connector 65 in Kee shows the flexible tubing recited in claim 19. However, if the valve 20 in Fuson were to be connected to the connector 65 in Kee, the septum 68 would not connect the second opening and the third port, nor would it maintain continuous sealed communication between the second opening and the third port. This is because the septum would not be disposed between the second opening and the third port. Rather, the septum would be located downstream from the third port because it would not be contained in the housing of the valve. Moreover, the septum 68 is not a flexible tube.

Furthermore, the septum 68 in Kee would **not** flex in response to movement of the valve member 45 in Fuson. The septum 68 in Kee is used as a one-way valve for connecting a suction control valve. The septum 68 would have no direct connection to the valve member 45 in Fuson if the valve 20 was connected to the connector 65 in Kee. Therefore, the septum would not flex in response to movement of the valve member. The only movement of the septum occurs when a component is connected to the opening 67 in the connector 65. Therefore, the combination of Fuson and Kee fails to teach or

suggest every element of claim 19. Accordingly claim 19 is patentable over the cited references. New claim 36 depends from claim 19 and is patentable for at least the same reasons

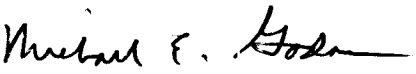
Claim 36 further states that the flexible tubing has one end received in the second opening of the valve member and a second end received in the third port. The septum 68 in Kee would not have this configuration if the valve 20 in Fuson and connector 65 in Kee were attached. Therefore, claim 36 is patentable over the cited references for this additional reason.

Conclusion

In view of the foregoing, favorable consideration and acceptance of claims 1-9, 11-21, 23-29, 32 and 34-38 is requested.

The Examiner is hereby authorized to charge any additional fees due or credit any over-payment of fees to Deposit Account No. 19-0254.

Respectfully submitted,



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